



PUBLIC NOTICE

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**Federal Communications Commission
445 12th St., S.W.
Washington, D.C. 20554**

**DA 00-185
February 2, 2000**

**American Fiber Touch, LLC Seeks Commission Determination of "Exempt
Telecommunications Company" Status Under the Public Utility Holding
Company Act of 1935, As Amended by Section 103 of the
Telecommunications Act of 1996**

NSD File No: ETC 00-02

Pleading Cycle Established

Comments Due: February 22, 2000

Reply Comments Due: March 7,

2000

On January 27, 2000, American Fiber Touch, LLC ("AFT"), pursuant to Section 34(a)(1) of the Public Utility Holding Company Act of 1935 ("PUHCA"), as added by Section 103 of the Telecommunications Act of 1996, Pub. L. No. 104-104, filed an application requesting a Commission determination that it is an exempt telecommunications company ("ETC").

AFT is a limited liability company formed under the laws of the state of Delaware, and a subsidiary company of AEP Communications, LLC. Specifically, AFT was formed by AEP Communications, LLC, and Touch America, Inc. for the purpose of developing, owning and operating one or more fiber optic cable systems.

AFT will be engaged, directly or indirectly, to exclusively provide telecommunications services, information services, and other services or products subject to the jurisdiction of the Federal Communications Commission ("FCC"), and/or other products or services that are related or incidental to the provision of such products or services, within the meaning of Section 103 of the Telecommunications Act of 1996. AFT will directly or indirectly, through one or more affiliates, delegation or by contract develop, own and operate one or more fiber optic cable systems. In the future, AFT directly or indirectly, through one or more affiliates, may provide other telecommunications services, information services, information services, and products as permitted pursuant to Section 34(a)(1) of PUHCA.

In accordance with 47 C.F.R. § 1.5004, if the Commission does not issue an order denying AFT's application within 60 days of receipt of this application, January 27, 2000, the application will be deemed granted as a matter of law. In accordance with 47 C.F.R. § 1.5003, a person applying in good faith for a Commission determination of ETC status is deemed to be an ETC from the date of receipt of the application, January 27, 2000, until the date of Commission action pursuant to 47 C.F.R. § 1.5004. In accord with 47 C.F.R. § 1.5005, the Secretary of the Commission is now notifying the Securities and Exchange Commission (SEC) that AFT is deemed to be an exempt telecommunications company. In the event that the Commission issues an order within 60 days of receipt of the application denying the application, the Secretary will so notify the SEC. Otherwise, the Commission will take no further action to grant this application.

This proceeding is considered a "permit but disclose" proceeding for purposes of the Commission's *ex parte* rules. *See generally* 47 C.F.R. §§ 1.1200 - 1.1206. Persons wishing to file comments, regarding the adequacy or accuracy of the AFT application requesting status as an ETC, must do so no later than **February 22, 2000**. All comments should also be served on the applicant. Reply comments must be filed no later than **March 7, 2000**.

Interested parties should file an original and four copies of their comments with the Office of the Secretary, Federal Communications Commission, 445 Twelfth St., SW, Room TW-A325, Washington, D.C. 20554. In addition, parties should send one copy to ITS, at 1231 20th Street, NW, Washington, D.C. 20036 and two copies to Al McCloud, Common Carrier Bureau, Network Services Division, FCC, 445 12th Street, SW, Room 6-A320, Washington, D.C. 20554. All filings concerning any of the matters referenced in this Public Notice should refer to NSD File No. **ETC 00-02**. The application will be available for public inspection Monday through Friday in the FCC Reference Center, Portals II, 445 12th Street, SW, Suite CY-A257, Washington, D.C., 20554, (202) 418-0267.

For further information, contact Al McCloud, (202) 418-2499 (voice), amccloud@fcc.gov or Marty Schwimmer, (202) 418-2320 (voice), mschwimm@fcc.gov, of the Network Services Division, Common Carrier Bureau. The TTY number is (202) 418-0484.

-FEDERAL COMMUNICATIONS COMMISSION-